

BOMBAY ACT No. VII OF 1925.<sup>1</sup>

[THE BOMBAY CO-OPERATIVE SOCIETIES ACT, 1925.]

[4th December 1925]

Amended by Bom. 8 of 1933.

" " " 22 of 1935.

" " " 8 of 1936.

" " " 17 of 1936.

" " " 24 of 1936.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

Amended by Bom. 29\* of 1942.

" " " 16\* of 1943.

" " " 28 of 1948.

" " " 14 of 1949.

" " " 53 of 1949.

" " " 12 of 1950.

Adapted and modified by the Adaptation of Laws Order, 1950.

Amended by Bom. 2 of 1952.

" " " 22 of 1952.

" " " 18 of 1953.

" " " 41 of 1953.

" " " 73 of 1954.

**An Act to consolidate and amend the law relating to Co-operative Societies in the Presidency of Bombay.**

WHEREAS it is expedient further to facilitate the formation and working of co-operative societies for the promotion of thrift, self-help and mutual aid among agriculturists and other persons with common economic needs so as to bring about better living, better business and better methods of production and for that purpose to consolidate and amend the law relating to co-operative societies in the Presidency of Bombay; and whereas the previous sanction of the Governor-General required by sub-section (3) of section 80-A of the Government of India Act has been obtained for the passing of this Act: It is hereby enacted as follows:—

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<sup>2</sup>[CHAPTER I.

## PRELIMINARY.]

1. This Act may be called the Bombay Co-operative Societies Act, 1925. Short title.
2. This Act extends to the whole of the Presidency of Bombay. Extent.
3. In this Act, unless there is anything repugnant in the subject or context,— Definitions.
  - (a) "by-laws" means by-laws registered under this Act and for the time being in force and includes a registered amendment of such by-laws;
  - (b) "Committee" means the Committee of Management or other directing body to whom the management of the affairs of a society is entrusted;
  - <sup>3</sup>[(b1) "banking company" means a banking company as defined in clause (b) of section 5 of the Banking Companies Act, 1949;

X of  
1949.

<sup>1</sup> For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1924, Part V, pp. 46-48; for Report of Select Committee, see *ibid.*, 1924, Part V, pp. 108-13 and *ibid.* 1925, Part V, pp. 68-70; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1924 and 1925 Vols. XII, XIII and XV.

\* This Act has been repealed and re-enacted by Bom. 28 of 1948, s. 2.

<sup>2</sup> The words and figure "Chapter I—Preliminary" were substituted for the word "Preliminary" by Bom. 8 of 1936, s. 2.

<sup>3</sup> These clauses were inserted by Bom. 2 of 1952, s. 2.

(b2) "company" means a company as defined in clause (2) of sub-section (1) of section 2 of the Indian Companies Act, 1913, and includes a banking company ; <sup>VII of 1913.</sup>

(b3) "firm" means a firm registered under section 59 of the Indian Partnership Act, 1932 ; <sup>IX of 1932.</sup>

(c) "Member" includes a person joining in the application for the registration of a society or a person admitted to membership after registration <sup>1</sup>[in accordance with this Act or] the rules and by-laws applicable to such society ;

(d) "Officer" includes a chairman, secretary, treasurer, member of committee or other person empowered under the rules or under the by-laws of a society to give directions in regard to the business of such society ;

(e) "Society" means a society registered or deemed to be registered under this Act ;

(f) "Registrar" means a person appointed to perform the duties of a Registrar of Co-operative Societies under this Act ;

(g) "Rules" means rules made under this Act ;

(h) (1) a "Resource society" means a society formed with the object of obtaining for its members the credit, goods or services required by them ;

(2) a "Producers' society" means a society formed with the object of producing and disposing of goods as the collective property of its members and includes a society formed with the object of the collective disposal of the labour of the members of such society ;

(3) a "Consumers' society" means a society formed with the object of obtaining and distributing goods to or of performing services for its members, as well as to other consumers and of dividing among its members and customers in a proportion prescribed by the rules or by the by-laws of such society, the profits accruing from such supply and distribution ;

(4) a "Housing society" means a society formed with the object of providing its members with dwelling houses on conditions to be determined by its by laws ;

<sup>2</sup>[(5) a "General society" means a society not falling under any of the classes of societies defined in any other clauses of this section ;

<sup>3</sup>[(6) a "Federal society" means a society not less than three-fourths of the members of which are societies ;]

<sup>4</sup>[(7) a "Farming society" means a society formed with the object of promoting development of land and better methods of cultivation by means of improved seed, manure, irrigation, bunding, tractor ploughing, gully plugging and soil conservation.

*Explanation.*—A Farming society shall be of two classes :—(1) a Better farming society, and (2) a Co-operative farming society :—

(i) A Farming society shall be classed as a Better farming society if the predominant object is the application of improved methods of cultivation. A Better farming society includes a Crop protection society ;

(ii) A Farming society shall be classed as a Co-operative farming society if the predominant object is the application of Co-operative methods by the holders of lands and in respect of cultivation.]

The Registrar shall classify all societies under one or other of the above heads and his decision shall be final :

<sup>1</sup> These words were substituted for the words "in accordance with" by Bom. 22 of 1952, s. 2 (i).

<sup>2</sup> This sub-clause was substituted for the original, *ibid.*, s. 2 (2) (i).

<sup>3</sup> Sub-clause (6) was inserted by Bom. 28 of 1948, s. 3 (i).

<sup>4</sup> This sub-clause was inserted by Bom. 14 of 1949, s. 2 (i).

## [CHAPTER V.

## PRIVILEGES OF SOCIETIES.]

23. The registration of a society shall render it a body corporate by the name under which it is registered, with perpetual succession and a common seal, and with power to hold property, to enter into contracts, to institute and defend suits and other legal proceedings and to do all things necessary for the purposes of its constitution.

<sup>2</sup>[24. (1)] Subject to any prior claim of <sup>3</sup>[the <sup>4</sup>[Government]] in respect of land revenue or any money recoverable as land revenue or of a landlord in respect of rent or any money recoverable as rent,

(a) any debt or outstanding demand owing to a society by any member or past member shall be a first charge (i) upon crops or other agricultural produce raised in whole or in part with a loan taken from the society by such member or past member, and (ii) upon any cattle, fodder for cattle, agricultural or industrial implements or machinery, or raw materials for manufacture or workshops, godown or place of business, supplied to or purchased by such member or past member in whole or in part from any loan whether in money or goods given him by the society :

\* \* \* \* \*

(b) any outstanding demands or dues payable to a housing society by any member or past member in respect of rent, shares, loans, or purchase money or any other rights or amounts payable to such society shall be a first charge upon his interest in the immovable property of the society.

<sup>6</sup>[(2) No property or interest in property which is subject to a charge under sub-section (1) shall be transferred in any manner except by way of lease for a term not exceeding ten years without the previous permission of the society.

(3) Notwithstanding anything contained in any law, any transfer made in contravention of the provisions of sub-section (2) shall be void.

(4) Any person who in contravention of the provisions of sub-section (2) transfers any property which is subject to a charge under sub-section (1) shall, on conviction, be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees.]

<sup>7</sup>[24AA. Notwithstanding anything contained in this Act or in any other law for the time being in force—

<sup>8</sup>(i) any person who makes an application to a society of which he is a member for a loan shall, if he owns any land, make a declaration in the form prescribed by rules. Such declaration shall state that the applicant thereby creates a charge on the land owned by him and specified therein for the payment of the amount of the loan which the society may make to the member in pursuance of the application and for all future advances, if any, required by him which the society may make to him as such member subject to such maximum as may be determined by the society together with interest on such amount of the loan and advances;]

<sup>1</sup> The words and figures " Chapter V—Privileges of Societies " were substituted for the words " Privileges of Societies " by Bom. 8 of 1936, s. 2.

<sup>2</sup> Section 24 was numbered as sub-section ( ) by Bom. 28 of 1948, s. 13 (1).

<sup>3</sup> The words " the Crown " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

<sup>4</sup> This word was substituted for the word " Crown " by the Adaptation of Laws Order, 1950.

<sup>5</sup> The proviso was deleted by Bom. 28 of 1948, s. 13 (2).

<sup>6</sup> Sub-sections (2), (3) and (4) were inserted, *ibid.*, s. 13 (3).

<sup>7</sup> Section 24AA was inserted, *ibid.*, s. 14.

<sup>8</sup> Clause (i) was substituted by Bom. 14 of 1949, s. 3 (a).

<sup>1</sup>[(ii) any person who has borrowed a loan from a society of which he is a member before the date of the coming into force of the Bombay Co-operative Societies (Amendment) Act, 1948, and who owns any land shall, as soon as possible, make a declaration in the form and to the effect referred to in clause (i) and no such person shall, unless and until he has made such declaration, be entitled to exercise any right as a member of the society ;]

(iii) a declaration made under clause (i) or (ii) may be varied at any time by a member with the consent of the society in favour of which such charge is created ;

(iv) no member shall alienate the whole or any part of the <sup>2</sup>[land] specified in the declaration made under clause (i) or (ii) <sup>3</sup>[until the whole amount borrowed by the member together with interest thereon is paid in full] :

Provided that standing crops on any such <sup>2</sup>[land] may be alienated with the previous permission of the society ;

<sup>4</sup>[Provided further that it shall be lawful to a member to execute a mortgage bond in favour of the State Government in respect of such land or any part thereof under the Bombay Canal Rules made under the Bombay Irrigation Act, 1879, for the supply of water from a canal to such land or any part thereof] ;

(v) any alienation made in contravention of the provisions of clause (iv) shall be void ;

(vi) subject to the prior claims of the <sup>5</sup>[Government] in respect of land revenue or any money recoverable as land revenue and to the charge, if any, created under an award made under the Bombay Agricultural Debtors Relief Act, 1947, there shall be a first charge in favour of the society on the <sup>2</sup>[land] specified in the declaration made under clause (i) or (ii) for and to the extent of the dues owing by him on account of the loan ;

(vii) notwithstanding anything contained in Chapter X-A of the Bombay Land Revenue Code, 1879, the Record of Rights maintained under the said Chapter shall also include the particulars of every charge on <sup>2</sup>[land] created under a declaration under clause (i) or (ii).

<sup>6</sup>[Explanation.—For the purposes of this section, “society” shall mean—

(a) any resource society, the majority of the members of which are agriculturists and the primary object of which is to obtain credit for its members ;  
or

(b) any society or any society of the class of societies specified in this behalf by the State Government by a general or special order.]

Deduction  
from salary  
to meet  
society's  
claim in  
certain cases.

<sup>7</sup>[24A. (1) A member of a society may execute an agreement in favour of the society providing that his employer shall be competent to deduct from the salary or wages payable to him by the employer such amount as may be specified in the agreement and to pay the amount so deducted to the society in satisfaction of any debt or other demand owing by the member to the society.

<sup>1</sup> Clause (ii) was substituted by Bom. 14 of 1949, s. 3 (a).

<sup>2</sup> This word was substituted for the words “immovable property” and “property”, *ibid.*, s. 3 (b).

<sup>3</sup> These words were substituted for the words “until the loan is repaid in full”, *ibid.*, s. 3 (c).

<sup>4</sup> This proviso was added by Bom. 73 of 1954, s. 2.

<sup>5</sup> This word was substituted for the word “Crown” by the Adaptation of Laws Order, 1950.

<sup>6</sup> This Explanation was substituted for the original by Bom. 22 of 1952, s. 8.

<sup>7</sup> This section was inserted by Bom. 29 of 1942, s. 2, read with Bom. 28 of 1948, s. 2.

(2) On the execution of such agreement the employer shall, if so required by the society by a requisition in writing and so long as such debt or demand or any part of it remains unpaid, make the deduction in accordance with the agreement and pay the amount so deducted to the society. <sup>1</sup>[within fourteen days from the date on which such deduction is made.]

(3) The provisions of this section shall also apply to all such agreements of the nature referred to in sub-section (1) as were in force on the date of the commencement of the Bombay Co-operative Societies (Amendment) Act, 1942.

(4) Nothing contained in this section shall apply to persons employed in <sup>2</sup>[railways (within the meaning of the Constitution), mines and oil-fields].]

25. A society shall have a charge upon the share or interest in the capital and on the deposits of a member or past member and upon any dividend, bonus or profits payable to a member or past member in respect of any debt due from such member or past member to the society, and may set off any sum credited or payable to a member or past member or towards payment of any such debt. Charge and set-off in respect of shares or interest of member.

26. Subject to the provisions of section 25, the share or interest of a member in the capital of a society <sup>3</sup>[or in a loan stock issued by a housing society] or <sup>4</sup>[the share or interest of a member, or officer or servant of a society] in any provident fund established under section 41 of this Act shall not be liable to attachment or sale under any decree or order of a court of justice in respect of any debt or liability incurred by such member, <sup>5</sup>[officer or servant] and neither the Official Assignee under the <sup>6</sup>Presidency-towns Insolvency Act, 1909, nor a Receiver under the <sup>7</sup>Provincial Insolvency Act, 1920, shall be entitled to or have any claim on such share or interest. Shares or interest not liable to attachment.

III of 1909.  
V of 1920.

27. (1) <sup>7</sup>[Subject to the provisions of section 17A,] on the death of a member of a society such society may within a period of one year from the date of such member transfer the share or interest of the deceased member to a person or persons nominated in accordance with the by-laws of the society, if duly admitted a member of the society, in accordance with the rules or the by-laws of the society, or if there is no person so nominated, to such person as may appear to the Committee to be the heir or legal representative of the deceased member if duly elected a member of the society, or may pay to such nominee, heir or legal representative, as the case may be, a sum representing the value of such, member's share or interest as ascertained in accordance with the rules or by-laws: Transfer of interest on death of member.

<sup>1</sup> These words were added by Bom. 73 of 1954, s. 3.

<sup>2</sup> These words and brackets were substituted for the words, brackets and figures "Federal railways (within the meaning of the Government of India, Act, 1935)" by the Adaptation of Laws Order, 1950.

<sup>3</sup> These words were inserted by Bom. 12 of 1950, s. 3.

<sup>4</sup> These words were inserted by Bom. 28 of 1948, s. 15 (i).

<sup>5</sup> These words were inserted, *ibid.*, s. 15 (ii).

<sup>6</sup> See Central Acts.

<sup>7</sup> These words, figures and letter were inserted by Bom. 22 of 1952, s. 9.

36. Consumers', Producers' and Housing Societies may to the extent permitted by their by-laws trade with persons who are not members, but the transactions of a Resource society with persons other than members except as provided under section 34 or 35 shall be subject to such prohibitions and restrictions, if any, as <sup>1</sup>[the <sup>2</sup>[State] Government] may by rules prescribe. Restrictions on other transactions with non-members.

37. A society may invest or deposit its funds—

- (a) in the Government Savings Bank ; or
- (b) in any of the securities specified in section 20 of the <sup>3</sup>Indian Trusts Act, 1882 ; or
- (c) in the shares or on the security of any other society, provided that no such investment shall be made in the shares of any society other than one with limited liability ; or
- (d) with any bank or person carrying on the business of banking approved for this purpose by the Registrar ; or
- (e) in any other mode permitted by the rules <sup>4</sup>[or by general or special order of the <sup>2</sup>[State] Government].

Investment of funds.

38. No society shall pay a dividend to its members at a rate exceeding <sup>5</sup>[6<sup>1</sup>/<sub>4</sub>] per cent. Restrictions on dividend.

39. (1) Every society which does or can derive a profit from its transactions shall maintain a reserve fund. Reserve Fund.

(2) In the case of a Resource or Producers' society at least <sup>1</sup>/<sub>4</sub>th of the net profits of the society each year shall be carried to the reserve fund and in the case of any other society at least <sup>1</sup>/<sub>10</sub>th of the net profits of the society each year shall be carried to the reserve fund, and such reserve fund may be used in the business of the society or may be invested, subject to the provisions of section 37, as <sup>1</sup>[the <sup>2</sup>[State] Government] may by general or special order direct, or may, with the previous sanction of <sup>1</sup>[the <sup>2</sup>[State] Government] be used in part for some public purpose likely to promote the objects of this Act or for some purposes of provincial or local interest.

<sup>6</sup>[39A. Every society which pays a dividend to its members at a rate of 4 per cent. or more shall contribute towards the educational fund of the Bombay Provincial Co-operative Institute at such rate as may be prescribed.] Contribution to educational fund of Bombay Provincial Co-operative Institute.

40. Subject to the provisions of section 38 the balance of the profits of a society after making the prescribed provision for the reserve fund <sup>7</sup>[and contribution, if any, to the educational fund of the Bombay Provincial Co-operative Institute] may, together with any available profits of past years be distributed among its members <sup>8</sup>[and be paid to the State Government on the share capital of the society contributed by it, if any, under section 33A] and in the case of Consumers' and Producers' societies, also among persons who are not members, to the extent and under the Restrictions on distribution of profits.

<sup>1</sup> The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

<sup>3</sup> See Central Acts.

<sup>4</sup> These words were added by Bom. 28 of 1948, s. 18.

<sup>5</sup> The figures "6<sup>1</sup>/<sub>4</sub>" were substituted for the figures "10" *ibid.*, s. 19.

<sup>6</sup> Section 39 A was inserted, *ibid.*, s. 20.

<sup>7</sup> These words were inserted, *ibid.*, s. 21.

<sup>8</sup> These words were inserted by Bom. 73 of 1954, s. 4. This amendment shall be deemed to have been made on and to have effect from the 14th February 1952. (See s. 12 of Bom. 73 of 1954).

conditions prescribed by the rules or by the by-laws of such societies, provided that :—

(a) in the case of a Resource society on a basis of unlimited liability in which the members do not hold shares, no distribution of profits shall be made without the general or special order of <sup>1</sup>[the <sup>2</sup>[State] Government] in this behalf; and

(b) in the case of a Resource society on a basis of unlimited liability in which the members hold shares, no such distribution of profits shall be made until 10 years from the date of registration of the society have elapsed.

Provident  
Fund.

41. Any society may establish a provident fund for its members <sup>3</sup>[or officers or servants] out of contributions from such members <sup>4</sup>[or officers or servants, as the case may be,] in accordance with by-laws made by the society in this behalf and may contribute to such provident fund from its net profits, after the prescribed payments have been made to the reserve fund, provided that such provident fund shall not be used in the business of the society but shall be invested under the provisions of section 37; and provided further, that no part of such provident fund shall be considered as an asset of the society.

Contribution  
to charitable  
purpose.

42. With the approval of the Bombay Central Co-operative Institute and after the payments prescribed by sub-section (2) of section 39 <sup>5</sup>[and section 39A have been made] any society may—

(a) set aside a sum not exceeding 20 per cent. of its net profits, and

(b) utilize from time to time the whole of such sum in contributing to any public or co-operative purpose, or to a charitable purpose as defined in section 2 of the <sup>6</sup>Charitable Endowments Act, 1890.

VI of  
1890.

#### [CHAPTER VII.

##### INSPECTION OF AFFAIRS.]

Inquiry by  
Registrar.

43. (1) The Registrar may of his own motion by himself or by a person duly authorised by him in writing in this behalf hold an inquiry into the constitution, working and financial condition of a society.

(2) The Registrar shall hold such an inquiry as is contemplated in sub-section (1) of this section—

(a) on the requisition of a society, duly authorised by rules made in this behalf to make such requisition, in respect of one of its members, such member being itself a society,

(b) on the application of a majority of the Committee of the society.

(c) on the application of  $\frac{1}{3}$ rd of the members of the society.

(3) All officers and members of the society whose affairs are investigated shall furnish such information in their possession in regard to the affairs of the society as the Registrar or the person authorised by the Registrar may require.

(4) The result of any inquiry under this section shall be communicated to the society whose affairs have been investigated.

Inspection  
of books of  
indebted  
society.

44. (1) The Registrar may on the application of a creditor of a society inspect or direct some person authorised by him by order in writing in this behalf to inspect the books of the society:

<sup>1</sup> The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

<sup>3</sup> These words were inserted by Bom. 28 of 1948 s. 22 (i).

<sup>4</sup> These words were inserted, *ibid.*, s. 22 (ii).

<sup>5</sup> These words, figures and letter were substituted for the words "have been made to the reserve fund", *ibid.*, s. 23.

<sup>6</sup> See Central Acts.

<sup>7</sup> These words and figures "Chapter VII—Inspection of Affairs" were substituted for the words "Inspection of affairs" by Bom. 8 of 1936, s. 2.

(h) to investigate all claims against the society and subject to the provisions of this Act to decide questions of priority arising out of such claims, and to pay rateably according to the amount of such debts, the surplus if any being applied in payment of interest from the date of liquidation at a rate to be fixed by the Registrar and not exceeding the contract rate ;

(i) to determine by what persons and in what proportion the cost of the liquidation shall be borne ;

(j) to give such directions in regard to the collection and distribution of the assets of the society as may appear to him to be necessary for winding up the affairs of the society ;

(k) to fix the time or times within which creditors shall prove their debts and claims or be included for the benefit of any distribution made before those debts or claims are proved ;

(l) to carry on the business of the society so far as may be necessary for the beneficial winding up of the same :

Provided that no liquidator shall determine the contribution, debt or dues to be recovered from <sup>1</sup>[a member or] a past member or the representative of a deceased member unless opportunity has been given to such <sup>2</sup>[member or] past member or to such representative to answer the claim.

50A. (1) Where, in the course of <sup>3</sup>[an audit under section 22 or an inquiry under section 43 or an inspection under section 44 or], the winding up of a society appears that any person who has taken part in the organization or management of the society or any past or present chairman, secretary, member of the managing committee or officer of the society has misapplied or retained or become liable or accountable for any money or property of the society or has been guilty of misfeasance or breach of trust in relation to the society, the Registrar may, on the application of <sup>4</sup>[the officer conducting the audit or holding the inquiry or inspection, or of] the liquidator or of any creditor or contributory, examine into the conduct of such person and <sup>5</sup>[after giving reasonable opportunity to the person concerned to submit his explanation], make an order requiring him to repay or restore the money or property or any part thereof respectively with interest at such rate as the Registrar thinks just or to contribute such sum to the assets of the society by way of compensation in regard to the misapplication, retainer, misfeasance or breach of trust as the Registrar thinks just.

Power of Registrar to assess damage against delinquent promoters, etc.

(2) This section shall apply notwithstanding that the act is one for which the offender may be criminally responsible.

51. Save in so far as is expressly provided in this Act no civil court shall take cognizance of any matter connected with the winding up or dissolution of a society under this Act and when a winding up order has been made no suit or other legal proceeding shall lie or be proceeded with against the society except by leave of the Registrar and subject to such terms as he may impose.

Bar of suit in winding up and dissolution matters.

<sup>1</sup> These words were inserted by Bom. 28 of 1948, s. 26 (a).

<sup>2</sup> These words were inserted, *ibid.*, s. 26 (b).

<sup>3</sup> These words and figures were inserted, *ibid.*, s. 27 (i).

<sup>4</sup> These words were inserted, *ibid.*, s. 27 (ii).

<sup>5</sup> These words were inserted, *ibid.*, s. 27 (iii).



Disposal  
of surplus  
assets.

52. After all the liabilities including the paid-up share capital of a cancelled society have been met, the surplus assets shall not be divided amongst its members but they shall be devoted to any object or objects described in the by-laws of the society and when no object is so described to any object of public utility determined by the general meeting of the society and approved by the Registrar or they may in consultation with them either be assigned by the Registrar in whole or in part to any or all of the following :

(a) an object of public utility of local or communal interest,

(b) a charitable purpose as defined in section 2 of the Charitable Endowments VI of Act, 1890, 1890.

(c) the Bombay Central Co-operative Institute, or may be placed on deposit with a Central Co-operative Bank <sup>2</sup>[until such time as a new society with similar objects is registered and is classified by the Registrar as falling under the head or sub-head specified in clause (h) of section 3 under which the cancelled society was classified] when with the consent of the Registrar such surplus may be credited to the reserve fund of such new society.

Surplus  
assets of  
housing  
society.

53. Where the society directed to be wound up is a housing society, its assets, both moveable and immovable, shall for the purposes of winding up or dissolution of the society jointly vest, subject to all rights and equities, in three persons of whom one shall be nominated by the Registrar, one shall be nominated by the said Society in a general meeting specifically called for the purpose and one shall be nominated by the Bombay Central Co-operative Institute. Such persons shall for the purpose of winding up or dissolution of the society be Joint Liquidators and shall have all the powers of a liquidator under this Act. They may, with the sanction of the Registrar, continue the working of the society, or may, subject to his sanction and in consultation with the members of the society in a general meeting, reconstruct the society or may sell off the premises of the society to the best advantage of all interests concerned, and when all the liabilities of the society are met may, dispose of the surplus assets of the society if any, as provided in section 52.

Arbitration.

54. <sup>3</sup>[(1)] <sup>4</sup>[(a)] If any dispute touching the <sup>5</sup>[constitution or] business of society arises between members or past members of the society or persons claiming through a member or past member or between members or past members or persons so claiming and any officer, agent or servant of the society <sup>6</sup>[past or present] or between the society or its committee, and any officer, agent, member or servant of the society <sup>6</sup>[past or present], it shall be referred to the Registrar for decision by himself or his nominee or if either of the parties so desires, to arbitration of three arbitrators who shall be the Registrar or his nominee and two persons of whom one shall be nominated by each of the parties concerned.

<sup>1</sup> See Central Acts.

<sup>2</sup> These words, brackets, letter and figure were substituted for the words "until such time as a new Society with similar conditions is registered" by Bom. 73 of 1954, s. 5.

<sup>3</sup> Section 54 was renumbered as sub-section (1) of that section by Bom. 22 of 1952, s. 9.

<sup>4</sup> Sub-section (1) was renumbered as clause (a) of that sub-section by Bom. 73 of 1954, s. 6 (1).

<sup>5</sup> These words were inserted by Bom. 28 of 1948, s. 28.

<sup>6</sup> The words "past or present" were inserted by Bom. 16 of 1943, s. 2, read with s. 2 of Bom. 28 of 1948.

A dispute shall include claims by a society for debts or demands due to it from a member or past member or the heirs or assets of a past member <sup>1</sup>[as well as claims by a member or past member or the heirs of a past member for any debts or demands due to him from the society,] whether such debts or demands be admitted or not :

Provided that if the question at issue between a society and a claimant, or between different claimants, is one involving complicated questions of law and fact, the Registrar may, if he thinks fit, suspend proceedings in the matter until the question has been tried by a regular suit instituted by one of the parties or by the society. If no such suit is instituted within six months of the Registrar's order suspending proceedings the Registrar shall take action as laid down in paragraph 1. of this section.

<sup>2</sup>[(b) Notwithstanding anything contained in clause (a), any dispute regarding the election of any office bearer of a society may, within one month from the date of declaration of the result of such election, be referred by any candidate at such election or any member of the society, to the Registrar for decision by himself or his nominee.]

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<sup>1</sup> These words were inserted by Bom. 41 of 1953, s. 4.

<sup>2</sup> This clause was added by Bom. 73 [of.] 1954, s. 6 (2).

(c) a society or an officer or member thereof wilfully makes a false return or furnishes false information ; or Wilful furnishing of false information.

(d) any person wilfully or without any reasonable excuse disobeys any summons, requisition or lawful written orders issued under the provisions of this Act or does not furnish any information lawfully required from him by a person authorised to do so under the provisions of this Act. Disobedience of summons, requisition or order.

<sup>1</sup>[60-A. Any officer of a society who wilfully recommends or sanctions, for his own personal use or benefit, loan in the name of any other person shall, on conviction, be punishable with fine which may extend to five hundred rupees.] Penalty for offences sanctioning benami loans.

<sup>2</sup>[60-B. Any employer, who, without sufficient cause, fails to pay to the society the amount deducted by him under sub-section (2) of section 24A within a period of fourteen days from the date on which such deduction is made shall, without prejudice to any action that may be taken against him under any law for the time being in force, on conviction, be punished with imprisonment for a term which may extend to one month or with fine which may extend to five thousand rupees or with both : Penalty for failure to pay amount under section 24A and offences by corporations.

Provided that if such employer is a company or other body corporate, every director, manager, secretary or other officer or agent thereof shall, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention.]

61. Every society, officer or member of a society or other person guilty of an offence under this Act for which no penalty is expressly provided herein shall be liable to a fine not exceeding Rs. 50. Penalty for offences not otherwise provided for.

<sup>1</sup> Section 60A was inserted by Bom. 28 of 1948, s. 36.  
Section 60B was inserted by Bom. 73 of 1954, s. 7.

62. (1) No person other than a registered society shall without the sanction of <sup>Prohibition of the use of the word "co-operative".</sup> [the <sup>2</sup>[State] Government] trade or carry on business under any name or title of which the word "co-operative" or its vernacular equivalent forms part :

Provided that nothing in this section shall apply to the use by any person or his successor in interest of any name or title under which he traded or carried on business at the date on which this Act comes into operation.

(2) Whoever contravenes the provisions of this section shall be punishable with fine which may extend to fifty rupees and in the case of a continuing offence with further fine of five rupees for each day on which the offence is continued after conviction therefor.

63. (1) No court inferior to that of a Presidency Magistrate or a Magistrate <sup>Cognizance of offences.</sup> of the First Class shall try any offence under this Act.

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1898. <sup>3</sup>[(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898,—

(a) every offence under this Act shall, for the purposes of the said Code, be deemed to be non-cognizable ;

(b) it shall be lawful for a Presidency Magistrate or a Magistrate of the First Class to pass a sentence of fine exceeding one thousand rupees on any person convicted of an offence under section 60B.

(3) No prosecution under this Act shall be lodged except with the previous sanction of the State Government in the case of an offence under section 60B and of the Registrar in the case of any other offence under this Act. Such sanction shall not be given except after hearing the party concerned by an officer authorised in this behalf by the State Government by a general or special order.]

#### <sup>4</sup>[CHAPTER X.

#### APPEALS AND REVISION.]

<sup>5</sup>[63A. (1) The <sup>2</sup>[State] Government shall constitute a Tribunal, called the <sup>Bombay Co-operative Tribunal.</sup> Bombay Co-operative Tribunal, to exercise the functions conferred on the Tribunal by or under this Act.

(2) The Tribunal shall consist of not more than three members possessing such qualifications as may be prescribed.

<sup>6</sup>[(2-A) Where the Tribunal consists of three members, any two members of the Tribunal shall form the quorum for the disposal of its business.]

(3) Any vacancy in the membership of the Tribunal shall be filled by the <sup>2</sup>[State] Government.

(4) Subject to the previous sanction of the <sup>2</sup>[State] Government, the Tribunal shall frame regulations consistent with the provisions of this Act and rules made thereunder, for regulating its procedure and the disposal of its business.

<sup>1</sup> The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

<sup>3</sup> These sub-sections were substituted for the original by Bom. 73 of 1954, s. 8.

<sup>4</sup> The words and figures "Chapter X.—Appeals and Revision" were substituted for the words "Appeals and Revision" by Bom. 8 of 1936, s. 2.

<sup>5</sup> Section 63A was inserted by Bom. 28 of 1948, s. 37.

<sup>6</sup> This sub-section was inserted by Bom. 12 of 1950, s. 8 (1).

(5) The regulations made under sub-section (4) shall be published in the *Official Gazette*.

(6) The Tribunal may call for and examine the record of any proceedings in which an appeal lies to it for the purpose of satisfying itself as to the legality or propriety of any decision or order passed. If in any case it shall appear to the Tribunal that any such decision or order should be modified, annulled or reversed, the Tribunal may pass such order thereon as to it may seem fit.

1[(6-A) Where an appeal is made to the Tribunal under section 56 it may in order to prevent the ends of justice being defeated make such interlocutory orders pending the decision of the appeal as may appear to it to be just and convenient or such orders as may be necessary for the ends of justice or to prevent the abuse of the process of the Tribunal.]

(7) An order passed in appeal, or in revision under sub-section (6) <sup>2</sup>[or in review under section 63B] by the Tribunal shall be final and conclusive and shall not be liable to be called in question in any civil or revenue court.]

Review of  
orders of  
Tribunal.

<sup>3</sup>[63B. (1) The Tribunal may, either on the application of the Registrar or on the application of any party interested, review its own order in any case and pass in reference thereto such order as it thinks fit :

Provided that no such application made by the applicant shall be entertained unless the Tribunal is satisfied that there has been a discovery of new and important matter or evidence which after the exercise of due diligence was not within the knowledge of the applicant or could not be produced by him at the time when its order was made or that there has been some mistake or error apparent on the face of the record or for any other sufficient reason :

Provided further that no such order shall be varied or revised unless notice has been given to the parties interested to appear and be heard in support of such order.

(2) An application for review under sub-section (1) by any party shall be made within 90 days from the date of the communication of the order of the Tribunal.

Tribunal to  
have powers  
of civil court.

63C. (1) In exercising the functions conferred on it by or under this Act, the Tribunal shall have the same powers as are vested in courts in respect of—

(a) proof of facts by affidavits ;

(b) summoning and enforcing the attendance of any person and examining him on oath ;

(c) compelling the production of documents ; and

(d) issuing commissions for the examination of witnesses.

(2) In the case of any such affidavit, any officer appointed by the Tribunal in his behalf may administer the oath to the deponent.]

<sup>1</sup> This sub-section was inserted by Bom. 12 of 1950, s. 8 (2).

<sup>2</sup> These words, figures and letter were inserted by Bom. 73 of 1954, s. 9.

<sup>3</sup> Sections 63B and 63C were inserted, *ibid.*, s. 10.

<sup>1</sup>[64. (1) An appeal against an order or decision under section 10, 16, 45, 47, Appeals. 50 or 50A, shall lie—

(a) if made or sanctioned by the Registrar, to the State Government ;

(b) if made or sanctioned by any person on whom the powers of the Registrar are conferred, to the Registrar :

Provided that no appeal shall lie against an order passed by the Registrar on appeal.

(2) An appeal under sub-section (1) shall be filed within two months of the date of the communication of the order or decision.]

<sup>2</sup>[64-IA. In all cases in which it is provided under this Act that an appeal may be filed against any decision or order within a specified period, the appellate authority may admit an appeal after the expiry of such period, if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within such period.] Extension of period of limitation by appellate authority in certain cases.

64A. <sup>3</sup>[The <sup>4</sup>[State] Government] and the Registrar may call for and examine the record of any inquiry or the proceedings of any officer subordinate to them <sup>5</sup>[except those referred to in sub-section (6) of section 63A] for the purpose of satisfying themselves as to the legality or propriety of any decision or order passed and as to the regularity of the proceedings of such officer. If in any case, it shall appear to <sup>3</sup>[the <sup>4</sup>[State] Government] or the Registrar that any decision or order or proceedings so called for should be modified, annulled or reversed, <sup>2</sup>[the <sup>4</sup>[State] Government] or the Registrar, as the case may be, may pass such order thereon as to it or him may seem fit. Power of [State] Government and the Registrar to call for proceedings of Subordinate Officers and to pass orders thereon.

## <sup>6</sup>[CHAPTER XI.

### <sup>7</sup>[ <sup>8</sup>\*[FARMING SOCIETIES.]

<sup>9</sup>[64B. This Chapter shall apply to <sup>8</sup>\* Farming Societies :

Provided that the <sup>4</sup>[State] Government may, by general or special order, direct that the provisions of this Chapter shall also apply to any other class of societies and thereupon they shall apply as if such societies were <sup>8</sup>\* Farming Societies.] Application of this Chapter.

64C. In this Chapter, unless there is anything repugnant in the subject or context,— Definitions.

(a) "Board" means the Board constituted under section 64D ;

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(c) "Director of Agriculture" means the officer appointed for the time being to be the Director of Agriculture, and includes any officer appointed by <sup>3</sup>[the <sup>4</sup>[State] Government] to perform the duties of the Director of Agriculture under this Act ;

(d) "Inquiry Officer" means an officer appointed to hold an inquiry under this Chapter ;

<sup>1</sup> Section 64 was substituted for the original, by Bom. 73 of 1954, s. 11.

<sup>2</sup> Section 64A-IA was inserted by Bom. 12 of 1950, s. 9.

<sup>3</sup> The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

<sup>4</sup> The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

<sup>5</sup> These words, brackets, figures and letter were inserted by Bom. 28 of 1948, s. 39.

<sup>6</sup> Chapter XI was inserted by Bom. 8 of 1936, s. 3.

<sup>7</sup> These words were substituted for the words "Crop Protection Societies" by Bom. 28 of 1948, s. 40.

<sup>8</sup> The word "Better" was deleted by Bom. 14 of 1949, s. 7 (1).

<sup>9</sup> Section 64B was substituted for the original by Bom. 28 of 1948, s. 41.

<sup>10</sup> Clause (b) was deleted by Bom. 14 of 1949, s. 7 (2).

## SECTIONS.

- prescribing taxes ;
- writing off amounts due.
- Approval required to rules.
- Officers transferred from or to the service of the Government.
- Notice required in certain cases of dismissal.
- 58A. Discretionary power to make rules.
- 59. Rules made with approval of Commissioner or without approval.
- 60. Power to suspend, reduce or abolish any existing tax.
- 61. Power to make by-laws ;
  - markets and slaughter-houses, etc, etc.;
  - licensing, regulating and inspecting certain businesses ;
  - use of steam whistles, etc. ;
  - pilgrims' lodging houses ;
  - stalling of cattle, etc ;
  - milk shops ;
  - for regulating dairies and cattle-sheds ;
  - milk-stores, etc. ;
  - registration of births, etc. ;
  - regulating the disposal of the dead ;
  - for enforcing supply of information as to epidemics ;
  - for enforcing information as to liability to municipal taxation ;
  - octroi ;
  - terminal tax ;
  - for protecting water ;
  - public baths, etc. ;
  - conservancy ;
  - temporary structures and buildings ;
  - buildings ;
  - streets ;
  - ventilation ;
  - for requiring lighting staircases, etc., at night ;
  - qualified surveyors ;
  - drains ;
  - requiring information and plans in certain cases ;
  - controlling unwieldy traffic ;
  - public parks ;
  - general regulation.
- Fine may be imposed for infringement of by-laws.
- Publication of drafts of proposed by-laws.
- Objections and suggestions to be submitted to Central or State Government.
- 62. Rules and by-laws to be printed and sold.

## CHAPTER V.

## MUNICIPAL PROPERTY AND FUND.

- 63. Power to acquire and hold property for the purposes of the Act.
- 64. Decision of claims to property by or against the municipality.
- 65. Municipal fund.
- Special trusts.

## SECTIONS.

- 66. Application of municipal property and funds within and without the municipal boroughs.
- 67. Power to deposit and invest surplus funds.  
Surplus not so deposited or invested how to be dealt with.

## CHAPTER VI.

## OBLIGATORY AND DISCRETIONAL FUNCTIONS OF MUNICIPALITIES.

- 68. Duties of municipalities.
- 69. Provision for anti-rabic treatment of indigent persons.
- 70. Provision for lunatics and lepers.
- 70A. Analysis and inspection of water supplied through pipes.
- 71. Discretionary powers of expenditure of municipalities.
- 72. Arrangements purporting to be binding permanently or for a term of years,

## CHAPTER VII.

## MUNICIPAL TAXATION.

*(1) Imposition of Taxes.*

- 73. Taxes which may be imposed.
- 74. Payment to be made to the municipality in lieu of a rate on buildings by the Government concerned or the Government Representative, as the case may be.
- 75. Procedure preliminary to imposing tax.
- 76. Power to sanction, modify and impose conditions.
- 77. Publication of sanctioned rules with notice.
- 77A. Municipalities empowered by State Government to levy taxes at varying amount of rate.

*(2) Assessment of and liability to rates on buildings or lands.*

- 78. Preparation of an assessment-list.  
Power to inspect and require returns.
- 79. Person primarily liable for a rate on buildings or lands or both how to be designated if his name cannot be ascertained.  
Occupier liable for a rate on buildings or lands or both until he gives information.
- 80. Publication of notice of assessment list.
- 81. Public notice of time fixed for lodging objections.  
Objections how to be made.  
Hearing of objections.  
Authentication of list.  
Custody and inspection of list.  
Authenticated list how far conclusive.
- 82. Amendment of assessment list. Notice of new buildings.  
Objections how dealt with.  
Effect of amendment.



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83. Notice to be given to the standing committee of demolition or removal of a building.
84. New assessment-list need not be prepared every year.
- 84A. Power of State Government to appoint person to prepare and authenticate list in case of default by municipality.
85. Tax from whom primarily leviable.  
Recovery from occupiers.  
Remedy of occupier in such case.
86. Remission of tax in case of vacancies : when obligatory.  
When discretionary.  
Burden of proof on claimant.  
Explanatory clause.
87. Notice to be given to the Chief Officer of all transfers of title of persons primarily liable to payment of a rate on buildings or lands.
88. Form of notice.
89. Liability for payment of a rate on buildings or lands or both to continue in the absence of any notice of transfer.

(3) *Power to charge fees.*

90. Fees may be charged for certain licences.  
Levy of fees for unauthorized occupation or projection.  
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91. Fixed charges and agreements for payment in lieu of taxes for water supplied.  
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Power to compound tax on vehicles or animals.  
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92. Taxes on pilgrims may be assigned in part to local boards.

(5) *Octroi and Tolls.*

93. Octroi by-laws to be submitted with proposal for imposition of octroi.
94. Power to examine articles liable to octroi.  
Power to search where octroi is leviable.
95. Presentation of bills for octroi.
96. Penalty for evasion of octroi.
97. Tables of tolls to be shown on demand.
98. Power to seize vehicle or animal or goods on non-payment of octroi or toll.  
Power to sell property seized at once.  
Release of property on payment.  
Sale.  
Surplus how dealt with.
99. Power to keep account current with person, firm or public body in lieu of levying octroi on introduction of goods.
100. Collection of octroi by one public body on behalf of others.
101. Farming of tolls.  
Persons employed by lessee of toll to have power of seizure.

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## RECOVERY OF MUNICIPAL CLAIMS.

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  - If bill not paid within fifteen days, notice of demand to issue.
- 105. In what cases warrant may issue.
  - To whom warrant should be addressed.
  - Power of entry under special order.
  - Warrant how to be executed.
- 106. Sale of goods distrained in special cases.
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  - Surplus, if any, how dealt with.
- 107. Sale outside the district.
- 108. Fees and costs chargeable.
- 109. Summary proceedings may be taken against persons about to leave the borough.
- 110. Appeals to Magistrates.
- 111. Entries in the assessment-list and taxes and decisions to be final.
- 112. Liability of land, buildings, etc., for rates.
- 113. Receipts to be given for all payments.

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CHAPTER IX.

## MUNICIPAL POWERS AND OFFENCES.

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- 114. Power regarding public streets, etc.
  - Acquisition of adjacent land to form street.
- 115. Power to require repair, etc., of private streets.
  - And to declare such streets public.
  - Apportionment of expenses in default.
- 116. Power to declare any street a public street subject to objections by the owners.
- 117. New private streets.
  - Power of municipality to pass interim orders.
  - Right to proceed in certain cases.
  - Penalty.
- 118. The regular line of a public street.